

REMARKS

Claims 1-7, 9-16, 18-20, 22-25 and 27-33 are pending. The Office Action dated April 26, 2007 in this Application has been carefully considered. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 1, 10, 19 and 28 have been amended in this Response. Claims 34-42 have been added in this Response. Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 5, 14, 23 and 31-33 stand rejected under 35 U.S.C. § 112, first paragraph, as being failing to comply with the written description requirement. Specifically, the Examiner alleges that the recitation of sodium carbonate as a catalyst in the oxygen generating reaction is not described in the specification. Applicant respectfully traverses this rejection.

An objective standard for determining compliance with the written description requirement is, “does the description clearly allow persons of ordinary skill in the art to recognize that he or she invented what is claimed.” *In re Gosteli*, 872 F.2d 1008, 1012, 10 USPQ2d 1614, 1618 (Fed. Cir. 1989). Under *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64, 19 USPQ2d 1111, 1117 (Fed. Cir. 1991), to satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed. M.P.E.P. § 2163.02. Applicant respectfully asserts that the Examiner is applying an incorrect test in determining compliance with 35 U.S.C. § 112, first paragraph.

Applicant respectfully suggests that the Examiner is incorrect relying on the test described in M.P.E.P. § 2163.I. Early opinions suggest the Patent and Trademark Office was unwilling to find written descriptive support when the only description was found in the claims; however, this

viewpoint was rejected. See *In re Koller*, 613 F.2d 819, 204 USPQ 702 (CCPA 1980) (original claims constitute their own description); accord *In re Gardner*, 475 F.2d 1389, 177 USPQ 396 (CCPA 1973); accord *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976). It is now well accepted that a satisfactory description may be in the claims or any other portion of the originally filed specification. (Emphasis added.)

Applicants note that page 6, lines 1-14 state that a “combination of a Manganese compound and a Sodium-based compound” may be used, and the original claims, for example original Claims 5, 14 and 23, provided a satisfactory description of the catalyst as a mixture of Manganese Dioxide and Sodium Carbonate. Applicant asserts that one of ordinary skill in the art would understand that Sodium Carbonate is a Sodium-based compound. Accordingly, Applicant requests that 35 U.S.C. § 112, first paragraph, rejections of Claims 5, 14, 23 and 31-33 be withdrawn.

Claims 1-4, 6, 7, 9-13, 15, 16, 18-20, 22, 24-25 and 27-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated over U.S. Patent application Publication No. 2005/0022810 by Moore et al. (“Moore”). In light of the amendments submitted herewith, Applicant respectfully submits that the rejections have been overcome. Accordingly, Applicant respectfully requests that the rejections be withdrawn.

Rejected independent Claim 1, as now amended, more particularly recites one of the distinguishing characteristics of the present invention, namely, “a vessel containing a heat absorbing salt.” (Emphasis added.) Support for this Amendment can be found, among other places, on page 6, lines 10-12 of the original Application.

Moore was cited as allegedly disclosing all the limitations of Claim 1. Specifically, the Examiner cited paragraphs 17, 26, 28 and 32. However, Moore does not suggest, teach, or disclose the use of a salt for absorbing heat. Moore mentions only the use of liquids, chemicals for

producing oxygen, and a catalyst; however Moore does not mention heat absorption. See Moore, paragraphs [0026], [0032] and the discussions of Figure 2. Instead, Moore teaches that the heat produced during a chemical reaction can be addressed merely by placing Moore's device in an "external carrying pouch" to "isolate[c] the user from the heat generated in the reaction." Moore, paragraph [0012]. See also paragraphs [0021] and [0050].

In view of the foregoing, it is apparent that the cited reference does not teach the unique combination now recited in amended Claim 1. Applicant therefore submits that amended Claim 1 is clearly and precisely distinguishable over the cited reference in a patentable sense, and is therefore allowable over this reference and the remaining references of record. Accordingly, Applicant respectfully requests that the rejection of amended Claim 1 under 35 U.S.C. § 102(e) be withdrawn and that Claim 1 be allowed.

Applicant contends that the rejections of amended independent Claims 10, 19 and 28 are overcome for at least some of the reasons that the rejection of Claim 1, as amended, is overcome. These reasons include Moore not disclosing, teaching, or suggesting the use of a salt for absorbing heat. Applicant therefore respectfully submits that amended Claims 10, 19 and 28 are clearly and precisely distinguishable over the cited reference. Accordingly, Applicant respectfully requests that the rejection of amended Claims 10, 19 and 28 under 35 U.S.C. § 102(e) be withdrawn and that Claims 10, 19 and 28 be allowed.

Claims 2-4, 6, 7, 9, 11-13, 15, 16, 18, 20, 22, 24-25, 27, 29 and 30 depend from and further limit one of Claims 1, 10, 19 and 28. Hence, for at least the aforementioned reasons that Claims 1, 10, 19 and 28 should be deemed to be in condition for allowance, Claims 2-4, 6, 7, 9, 11-13, 15, 16, 18, 20, 22, 24-25, 27, 29 and 30 should also be deemed to be in condition for allowance. Applicant

respectfully requests that the 35 U.S.C. § 102(c) rejections of dependent Claims 2-4, 6, 7, 9, 11-13, 15, 16, 18, 20, 22, 24-25, 27, 29 and 30 also be withdrawn.

Claims 5, 14, 23 and 31-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of U.S. Patent No. 4,683,130 to Ueno ("Ueno"). Claims 5, 14, 23 and 31-33 depend from and further limit one of Claims 1, 10 and 19. Hence, for at least the aforementioned reasons that Claims 1, 10 and 19 should be deemed to be in condition for allowance, Claims 5, 14, 23 and 31-33 should also be deemed to be in condition for allowance. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejections of dependent Claims 5, 14, 23 and 31-33 also be withdrawn.

New Claims 34-42 have been added in this Response. New independent Claim 34 more particularly recites one of the distinguishing characteristics of the present invention, namely, "a vessel containing a heat absorbing salt." (Emphasis added.) New dependent Claims 33-42 depend from and further limit Claim 34. More particularly, dependent Claims 40-42 further limit the heat absorbing salt of Claim 34. Support for this Amendment can be found, among other places, on page 6, lines 10-12 of the original Application. Claims 34-42 therefore include the same distinguishing feature as independent Claims 1, 10, 19 and 28. Hence, for at least the aforementioned reasons that Claims 1, 10, 19 and 28 should be deemed to be in condition for allowance, Claims 34-42 should also be deemed to be in condition for allowance. Applicant respectfully requests allowance of new Claims 34-42.

Applicant has now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-7, 9-16, 18-20, 22-25 and 27-42.

Applicant hereby requests an extension of time for making this reply and hereby authorizes the Director to charge the required fee to Deposit Account No. 50-0605 of CARR LLP. Regarding new Claims 34-42 Applicant hereby authorizes the Director to charge the fee(s) required under 37 C.F.R. §1.16(h) and §1.16(i), for one independent Claim in excess of three and five Claims in excess of 20, to Deposit Account No. 50-0605 of CARR LLP. Applicant does not believe that any other fees are due; however, in the event that any other fees are due, the Director is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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